

REMARKS/ARGUMENTS

In the Office action dated November 21, 2006, the Examiner rejected claim 3 under 35 U.S.C. § 112, 2d paragraph, alleging that Applicant's wording rendered the claim indefinite. The Examiner rejected claims 3 - 6, all of the claims pending in the Application, under 35 U.S. C. § 102(b) as being anticipated by U. S. Patent No. 2,203,113 to Uecker *et al.*

In the Specification, no changes.

In the Claims, claims 3 and 6 are amended.

The Invention

The invention is method of fabricating a site-built building having a frame therein, using a novel column structure which forms part of the frame of a plural-story building structure, which uniquely allows for the implementation of several categories of what are referred to herein as construction-extension activities. According to a preferred and best-mode embodiment of the invention, columns for a plural-story building frame are constructed as hollow, tubular components. In whatever stage of building-frame completion "currently" exists, upper end regions in installed columns extend above what is referred to herein as the load-bearing portion of a building frame structure. Such a load-bearing portion is defined as that portion of a building frame which contains load-bearingly interconnected columns and beams. These column upper end regions nominally each terminates at an open, upwardly facing, upper end, referred to herein as a mouth. Such a mouth opens to the underlying hollow interior of the upper end region in the associated column component, and together with that interior defines what is referred to herein as a port. In a finished building, these mouths are closed off and environmentally sealed by

appropriate, removeably installed plugs. While a building frame is still under construction, the column mouths are normally left open.

It is these port-containing upper-end column regions which facilitate the activity which is referred to herein as construction-extension activity. While a building frame is still under construction, the ports provided by these regions allow for the temporary, removable installation of portable crane structures, such as davit crane structures, which can be employed to assist “locally” with various construction-extension tasks. In this kind of situation, the underlying building frame structure effectively acts as a supporting mast, or tower, for the installed crane. It will be appreciated by one of ordinary skill in the art that what is a “port” during a given stage of construction will become a part of the load-bearing portion of a building frame structure.

The Applied Art

U. S. Patent No. 2,203,113 to Uecker *et al.* describes a davit crane which is mounted on open frame scaffolding. Page 1, col. 1, lines 1-9; Page 1, col. 2, lines 7-10.

The Claims

Initially addressing the 35 U.S.C. § 112, 2d paragraph rejection of claim 2, wherein the Examiner stated: “The phrase “...for such a...” renders the claim(s) indefinite, the Examiner should reconsider this rejection, as the language is quite clear in Standard American English (SAE), as spoken, written and read in the United States of America, as referring to the previously recited crane structure used in the method of the invention. Applicant does not understand, and the Examiner has not explained, why the language is confusing. Applicant is not confused. Applicant’s attorney is not confused. Only the Examiner is confused. The use of a SAE

dictionary is recommended. The second cited phrase is "...utilizing direct lateral engagement therebetween and the receiving column...." should not be unclear to one who has read the specification and claims with reference to the drawings: there is a direct lateral engagement between the crane structure, the superstructure and the column utility port - such engagement provides lateral stabilization and support for the port-received structures (the items of claim 3, paragraph 3, identified as (a), (b), and (c)). The 35 U.S.C. § 112, 2d paragraph rejection should be withdrawn as there is no basis in the claim to support the Examiner's rejection.

As to presenting arguments clearly, it is noted that much of the Office action is presented as a collection of words which fail to comprise SAE sentences, and thus, renders interpretation of the Examiner's meaning most difficult. Applicant has reviewed the Office action and the Examiner's arguments, as best understood, and recognizes that Applicant's response may not be as complete as desired, because Applicant cannot understand the Examiner's arguments. The Examiner has failed to clearly set forth reasons for rejections of claims and arguments in SAE. Applicant is not required to decipher the Examiner's language to determine what the Examiner really means: all communications with the U.S. Patent and Trademark Office are required to be in English.

Claim 3 has been amended to clarify that the column components form a part of a building. The applied art is a scaffold having a winch thereon. At no time will the art of '113 be part of a building frame. Claim 3 requires that the utility port be located above a load-bearing portion of a building frame, or above a column component which is continuous with column components in the load-bearing portion of the building frame. Assuming, *arguendo*, that '113

teaches a building frame, the crane thereof is mounted on a load-bearing portion of the frame, not on a column component extending continuously *above* the load-bearing portion of the building frame. This alone is sufficient to render claim 1 allowable over the applied 35 U.S. C. § 102(b) art.

Additionally, the building frame above the load-bearing portion is required to form part of a crane supporting mount structure. Again, the portion of the frame of '113 on which the crane is mounted is part of the load-bearing portion. The crane shown in '113 is not fully supported by anything which may remotely be compared to Applicant's port. The figures clearly show, and the specification describes, use of a non-port located brace, comprising members 35, 36, 37 and 42, which latter element is secured to the deck of the scaffolding. See, '113, Fig. 1, page 1, col. 2, line 47 to page 2, col. 1, line 10. Claim 3 requires, for the crane structure, *et seq.*, "...utilizing engagement therebetween and the receiving column utility port to furnish *FULLY* all lateral stabilization of and support for the thus port-received structure." This renders claim 1 allowable over the applied art without any further consideration, as the applied art is not *FULLY* laterally stabilized by the alleged utility port.

Finally, claim 3 requires that the utility port and column components be configured to allow additional infrastructure to be feedable downwardly through the port towards a selected elevation in the building structure. There is little detail of the scaffold construction in '113, however, referring to U. S. Patent No. 2,043,498 of Uecker, cited in '113 at page 1, col. 1, lines 44-48, detail is shown in Fig. 5 thereof, which precludes the construction claimed by Applicant, as the column components of '113' and '498 are aligned and stabilized by a solid plug, which

precludes training anything down a column component. Again, claim 3 would be allowable over the applied art if it only claimed this feature, which feature was presented in the Application as filed, and has not been amended by this response.

Claim 4 is allowable as it requires each one of plural column components to be provided with a like, upper-end utility region. This means that all of the column components have the same type, configuration, *etc.*, top. Clearly, in Fig. 1 of '113, guard rail 19 is formed using some of the column components, and the top of the guard rail uprights do not have like, upper-end utility regions as do the column components. It should be noted that, if there is any portion of the structure of '113 which extends above the load-bearing portion, it is the guard rail, which fails completely and totally to meet the limitation of the claims of this Application.

Claim 5 is allowable with its allowable parent claims.

Claim 6 has been amended along the lines of claim 1, and is allowable for the reasons set forth in connection therewith.

Turning to the Office action, page 4, paragraph 4, while the Examiner has deemed Applicant's previously presented argument to be moot, the Examiner has failed fully to understand the previously presented arguments: Applicant has clearly recited the building frame and structures appurtenant thereto, which the Examiner has chosen to ignore. The Examiner has deemed a scaffold to be a building frame, and to have a load-bearing portion. The Examiner has deemed a support of the scaffold to be a column having a utility port, however, the utility port is required to be above the load-bearing portion, which is not shown in '113, and to be hollow so that building infrastructures are feedable downwardly through the port towards a selected

elevation in the building. As previously described, '113 does not have the requisite construction. Finally, the Examiner has ignored the provision of fully furnishing all lateral stabilization of a crane structure by a utility port located at the top of a column.

With respect to the Examiner's dissing of the argument regarding the utility port and crane structure, set forth in the second paragraph of section 4 of the Office action, while the "comprising" language is present in the claim, the limitation is "...to furnish fully all lateral stabilization of and support for...." It cannot get any clearer in English that the limitation is exclusive. The Examiner's statement that '113 "...can furnish/support fully all lateral stabilization acted upon the port structure" fails for two reasons: (1) it does not comprise any part of an understandable English sentence, and (2) it is a fiction - there is no support for the statement anywhere in '113, and, in fact, the structure of '113 can no more fully provide lateral support for a crane structure than the Examiner's argument can fully support rejection of the claim. Far from being moot, the argument, previously and currently presented, is a prime reasons for allowing the claims over '113.

In light of the foregoing amendment and remarks, the Examiner is respectfully requested to reconsider the rejections and objections state in the Office action, and pass the application to allowance. If the Examiner has any questions regarding the amendment or remarks, the Examiner is invited to contact the undersigned.

Provisional Request for Extension of time in Which to Respond

Should this response be deemed to be untimely, Applicants hereby request an extension of time under 37 C.F.R. § 1.136. The Commissioner is hereby authorized to charge any

additional fees which may be required, or credit any over-payment to Account No. 22-0258.

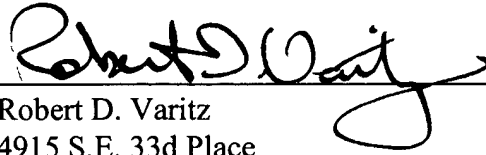
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Respectfully Submitted,

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I hereby certify that the attached Response to Office Action under 37 C.F.R. § 1.111 is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Washington, D.C. 22313-1450


Robert D. Varitz